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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
October 2003 Grand Jury

UNITED STATES OF AMERICA,)
) No. SA CR-04-16(A)-CJC
Plaintiff,)
) F I R S T
v.) S U P E R C E D I N G
) I N D I C T M E N T
JAMES P. LEWIS, JR.,)
) [18 U.S.C. § 1341: Mail Fraud;
Defendant.) 18 U.S.C. § 1956(a)(1)(A)(i):
) Money Laundering; 18 U.S.C.
) § 1957: Money Laundering;
) 18 U.S.C. § 2(b): Causing An
) Act To Be Done]
)

The Grand Jury charges:
COUNTS ONE through FIVE
[18 U.S.C. §§ 1341 and 2(b)]

A. INTRODUCTION

At all times relevant to this Indictment:
1. Financial Advisory Consultants ("FAC") was a fictitious
business name used by JAMES P. LEWIS, Jr.
2. Defendant JAMES P. LEWIS, Jr. ("LEWIS") operated FAC
from offices in Lake Forest, California.

GWS:gws

1 B. THE SCHEME TO DEFRAUD

2 3. Beginning in at least 1991 and continuing to on or about
3 December 22, 2003, in Orange County, within the Central District
4 of California, and elsewhere, defendant LEWIS, together with
5 others unknown to the Grand Jury, knowingly and with the intent
6 to defraud, devised, participated in, and executed a continuing
7 scheme to defraud and to obtain money from victim-investors by
8 means of materially false and fraudulent pretenses,
9 representations and promises, and by the concealment of material
10 facts in connection with and through a fraudulent investment
11 scheme.

12 4. Defendant LEWIS devised the scheme to operate, and the
13 scheme did operate, as follows:

14 a. To obtain the victim-investors' money, defendant
15 LEWIS would use material false promises and statements, and
16 concealment, including, without limitation, the claim that
17 he would use the victim-investors' funds to generate returns
18 for them through the purchase and sale of distressed
19 businesses, the leasing of medical equipment, the financing
20 of medical insurance premiums, and commercial lending.

21 b. Defendant LEWIS caused false and fraudulent
22 brochures and other promotional materials to be provided to
23 victim-investors to induce them to invest in certain
24 purported investment funds under the false pretenses that
25 defendant LEWIS operated and managed the funds and that the
26 victim-investors would earn annual rates of return as high
27 as 18% or 40% or more, depending on the fund.

28

1 c. Rather than using the victim-investors' funds in
2 the manner defendant LEWIS promised and described, defendant
3 LEWIS would use the funds to enrich himself, to operate FAC,
4 and to further promote the scheme.

5 d. To avoid detection and conceal the fraud, defendant
6 LEWIS would use the money of new investors, or subsequent
7 investments by existing investors, to make payments to prior
8 investors so that they would believe they were earning the
9 promised rate of return.

10 5. To execute the scheme, defendant LEWIS made and caused
11 others to make false and deceptive statements to prospective and
12 existing investors, including, without limitation, the following:

13 a. That FAC offered, managed and maintained an Income
14 Fund which paid an annual rate of return of approximately
15 18%;

16 b. That the FAC Income Fund generated its rate of
17 return by leasing medical equipment, financing insurance
18 premiums, and commercial lending;

19 c. That FAC offered, managed and maintained a Growth
20 Fund which paid an annual rate of return of approximately
21 40%;

22 d. That the FAC Growth Fund generated its rate of
23 return through the purchase and sale of distressed
24 businesses;

25 e. That FAC offered, managed and maintained Individual
26 Retirement Accounts ("IRAs") to allow investors to roll over
27 existing IRAs at financial institutions into the investment
28 with FAC;

1 f. That defendant LEWIS was the custodian of IRAs at
2 FAC;

3 g. That victim-investors had earned high rates of
4 return on their investments in the Income Fund and Growth
5 Fund as set forth in monthly account statements that were
6 sent to victim-investors;

7 h. That, as set forth in monthly FAC newsletters which
8 were sent to victim-investors, the FAC Income Fund and
9 Growth Fund had performed at high levels of return for
10 victim-investors; and

11 i. That, as of July 2003, the Department of Homeland
12 Security had frozen FAC's funds and, therefore, payments to
13 victim-investors would be delayed.

14 6. At the time defendant LEWIS made and caused these
15 statements to be made to prospective and existing victim-
16 investors, such statements were false, and defendant LEWIS knew
17 they were false, in that:

18 a. FAC did not have an Income Fund or Growth Fund.
19 Rather, defendant LEWIS merely maintained bank accounts in
20 the name of FAC and his own name into which victim-
21 investors' funds were deposited or transferred.

22 b. Victim-investors had not been earning any rate of
23 return promised in the brochures, promotional materials,
24 monthly account statements, or otherwise.

25 c. FAC did not purchase and sell distressed businesses
26 in connection with the Growth Fund, nor lease medical
27 equipment, finance insurance premiums, or engage in
28 commercial lending in connection with the Income Fund for

1 the benefit of victim-investors.

2 d. FAC did not hold victim-investors' funds in IRAs,
3 nor was defendant LEWIS qualified to act as custodian for
4 IRAs.

5 e. The Department of Homeland Security never froze any
6 funds of FAC. The Department of Homeland Security does not
7 have the authority to freeze accounts. In addition, the
8 Department of Homeland Security never had any investigation
9 of, or record of contact with, defendant LEWIS or FAC.

10 7. In carrying out the scheme to defraud, defendant LEWIS
11 knowingly concealed and caused to be concealed from prospective
12 and existing victim-investors the following material facts:

13 a. Defendant LEWIS used victim-investors' funds to
14 invest or trade in currency futures in his own name. From
15 1996 to 2003, defendant LEWIS incurred at least \$22 million
16 in losses trading in currency futures.

17 b. Defendant LEWIS used victim-investors' funds to
18 purchase real estate in his name, including homes in Villa
19 Park, San Diego, Laguna Niguel, and Palm Desert, California,
20 and in Greenwich, Connecticut.

21 c. Defendant LEWIS also used victim-investors' funds
22 to purchase automobiles, including several Mercedes Benz,
23 Buick, and BMW automobiles for himself, his wife, and his
24 girlfriend. Defendant LEWIS used victim-investors' funds to
25 purchase gifts such as jewelry for himself, friends and
26 family members.

27 d. Defendant LEWIS used victim-investors' funds to
28 invest in other companies in his own name.

1 8. As a result of the FAC investment scheme and the acts
2 and omissions alleged in Counts 1 through 14, and acts and
3 omissions that were part of the same course of conduct and common
4 scheme and plan as the offenses alleged in counts 1 through 14,
5 victim-investors lost more than \$100,000,000. At least fifty
6 victims lost money as a result of defendant LEWIS' conduct.

7 9. As described above, defendant LEWIS employed
8 sophisticated means in devising and executing the FAC investment
9 scheme, and in concealing the fraud from victim-investors. Since
10 at least 1991, defendant LEWIS used funds from new and existing
11 victim investors to make lulling payments to existing victim-
12 investors to cause them to believe they were earning the rates of
13 return LEWIS had promised to them.

14 10. In holding himself out as the manager of the Income
15 Fund and Growth Fund for FAC, and as the custodian for Individual
16 Retirement Accounts, defendant LEWIS abused a position of trust
17 when he devised and executed the FAC investment scheme.

18 11. As the sole proprietor of FAC since at least 1991, and
19 as the person responsible for soliciting money from victim-
20 investors and for making lulling payments to existing victim
21 investors, defendant LEWIS was a leader and organizer of criminal
22 activity that was extensive.

23 C. USE OF THE MAIL

24 12. On or about the dates set forth below, in Orange
25 County, within the Central District of California, for the
26 purpose of executing and attempting to execute the above-
27 described scheme to defraud and to obtain money from victim-
28 investors by means of materially false and fraudulent pretenses,

1 representations and promises, and by the concealment of material
2 facts, defendant LEWIS placed and caused to be placed in an
3 authorized depository for mail matter, to be sent and delivered
4 by the United States Postal Service, the following letters and
5 other materials, in violation of Title 18, United States Code,
6 Sections 1341 and 2(b):

<u>COUNT</u>	<u>DATE</u>	<u>ADDRESSEE</u>	<u>ITEM</u>
8 ONE	8/1/03	Brian S. Boise, Idaho	Account Statement and Newsletter
9 TWO	8/1/03	Russell L. Brea, California	Account Statement and Newsletter
10 THREE	9/1/03	Gregory V. Laguna Niguel, California	Account Statement and Newsletter
11 FOUR	9/1/03	Melanie O. Hercules, California	Account Statement and Newsletter
12 FIVE	10/1/03	Luann L. Riverside, California	Account Statement and Newsletter

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COUNTS SIX through TEN

[18 U.S.C. §§ 1956(a) (1) (A) (i) and 2(b)]

13. On or about the following dates, in Orange County, within the Central District of California, and elsewhere, defendant LEWIS knowingly conducted, attempted to conduct, and commanded, induced and procured the following financial transactions affecting interstate and foreign commerce, knowing that the property involved in each of the financial transactions represented the proceeds of some form of unlawful activity, and which property was, in fact, the proceeds of mail fraud, with the intent to promote the carrying on of said mail fraud, in violation of Title 18, United States Codes, Sections 1956(a) (1) (A) (i) and 2(b):

<u>Count</u>	<u>Date</u>	<u>Transaction</u>
SIX	7/31/03	Issuing of check for \$52,000 from FAC to Luann L., check # 22922
SEVEN	9/30/03	Issuing of check for \$52,000 from FAC to Luann L., check # 23990
EIGHT	10/2/03	Issuing of check for \$20,000 from FAC to Doug and Linda S., check # 24227
NINE	10/31/03	Issuing of check for \$52,000 from FAC to Luann L., check # 24517
TEN	12/15/03	Issuing of check for \$500,000 from FAC to Edward C., check # 13199

COUNTS ELEVEN through FOURTEEN

[18 U.S.C. §§ 1957 and 2(b)]

14. On or about the following dates, in Orange County, within the Central District of California, and elsewhere, defendant LEWIS did knowingly engage and attempt to engage in the following monetary transactions by, through, or with a financial institution, affecting interstate or foreign commerce, in criminally derived property of a value greater than \$10,000, that is, the deposit, transfer, or exchange of monetary instruments in amounts greater than \$10,000, such property having been derived from a specified unlawful activity, that is mail fraud in violation of Title 18, United States Code, Section 1341, in violation of Title 18, United States Code, Sections 1957 and 2(b):

<u>Count</u>	<u>Date</u>	<u>Transaction</u>
ELEVEN	7/10/03	Issuing of check for \$100,000 from FAC to defendant JAMES P. LEWIS, Jr., check # 13206
TWELVE	7/18/03	Issuing of check for \$100,000 from FAC to defendant JAMES P. LEWIS, Jr., check # 13030

Count	Date	Transaction
THIRTEEN	7/29/03	Issuing of check for \$50,000 from FAC to defendant JAMES P. LEWIS, Jr., check # 24227
FOURTEEN	9/8/03	Issuing of check for \$100,000 from FAC to defendant JAMES P. LEWIS, Jr., check # 24517

A TRUE BILL

Foreperson

DEBRA W. YANG
United States Attorney

STEVEN D. CLYMER
Special Assistant United States Attorney
Chief, Criminal Division

WAYNE R. GROSS
Assistant United States Attorney
Chief, Southern Division